

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**SUE F. BRADLEY,**

Plaintiff,

vs.

**GUIDANT CORPORATION, et al**

Defendants.

**CIVIL ACTION NO.**

3:07 CV 661-MHT

**DEFENDANTS' MOTION TO STAY ALL PROCEEDINGS  
IN THIS COURT PENDING TRANSFER TO MDL 1708**

Defendants Guidant Corporation and Guidant Sales Corporation (“Defendants”) hereby move this Court, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, to stay all proceedings, including but not limited (i) the time period for Defendants to answer or other respond to Plaintiff’s complaint, (ii) the period for initial disclosures pursuant to Rule 26 of the Federal Rules of Civil Procedure, and (iii) other discovery and pretrial deadlines, pending the Judicial Panel on Multidistrict Litigation’s (“JPML”) decision regarding transfer of Plaintiff’s claims against Defendants to MDL 1708. In support of their motion, Defendants state:

1. Plaintiffs' claims in this action arise out of a cardiac medical device allegedly manufactured by Defendant Guidant and implanted in Sue Bradley. *See generally*, Complaint.

2. Many other cases involving cardiac medical devices manufactured by Guidant have been filed in federal courts or removed to federal courts throughout the country. On November 7, 2005, the Judicial Panel on Multidistrict Litigation ("JPML") established an MDL Court and began transferring cases involving these allegedly-defective cardiac devices to the United States District Court for the District of Minnesota for consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See In re Guidant Corp. Implantable Defibrillators Products Liability Litigation*, (J.P.M.L. 2005) (transfer order) (Attached hereto as **Exhibit A**). Among the primary purposes of consolidating these cases cited by the JPML was to conserve judicial resources and avoid inconsistent rulings. *See id.* at 2.

3. As set forth in the Memorandum of Law, filed contemporaneously with this Motion, proceedings involving claims such as those presented in this case are routinely stayed pending transfer to an MDL Court. Since the MDL Court was created, more than 1800 cases have been transferred to the MDL Court, and more cases are in the process of being transferred.

4. Defendants have notified the JPML that Plaintiff's claims against Defendants are appropriate for transfer to the MDL Court. *See* Defendants' Seventy-fifth Notice of Potential Tag-Along Actions (attached as **Exhibit B**). Defendants expect that the JPML will transfer this case promptly.

5. A stay of all proceedings in this Court pending transfer is appropriate because such a stay will promote judicial economy and consistency. Transfer of this case will permit the MDL Court to decide the many issues that are likely to arise in the many cases pending against Defendants throughout the country.

6. A stay in this Court pending transfer to the MDL Court will not prejudice Plaintiff. Once the case is transferred, the parties will be subject to a rigorous pretrial schedule.

7. In support of this motion, Defendants rely on their brief in support of this motion and the following attached exhibits:

Exhibit A: *In re Guidant Corp. Implantable Defibrillators Products Liability Litigation*, (J.P.M.L. 2005)  
(transfer order)

Exhibit B: Seventy-fifth Notice of Potential Tag-Along Actions

Exhibit C: Various National Orders Granting Stays

Exhibit D: Various Alabama Orders Granting Stays

WHEREFORE, Defendants respectfully request that this Court enter an order staying all proceedings in this Court, including but not limited to, any deadline for an answer or other response to the complaint, the period for initial disclosures pursuant to Rule 26 of the Federal Rules of Civil Procedure, and other discovery and pretrial deadlines pending transfer of the above-captioned case to the MDL Court.

s/ Andrew B. Johnson  
One of the Attorneys for Defendants  
Guidant Corporation and Guidant  
Sales Corporation

OF COUNSEL:

Fred M. Haston, III (HAS012)  
Andrew B. Johnson (JOH168)  
Bradley Arant Rose & White LLP  
1819 Fifth Ave. North  
Birmingham, Alabama 35203  
(205) 521-8000  
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[thaston@bradleyarant.com](mailto:thaston@bradleyarant.com)  
[ajohnson@bradleyarant.com](mailto:ajohnson@bradleyarant.com)

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Thomas J. Knight  
Hubbard & Knight  
1125 Noble Street  
P.O. Box 1850  
Anniston, AL 36201

Michael K. Wright  
Starnes & Atchison  
P.O. Box 598512  
Birmingham, Alabama 35259-8512

Steven R. Morris  
108 South Main Street  
P.O. Box 814  
Wedowee, Alabama 36278-0814

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

Respectfully submitted,

s/ Andrew B. Johnson

Bradley Arant Rose & White LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2104  
Telephone: (205) 521-8000  
Facsimile: (205) 521-8800  
E-mail: [ajohnson@bradleyarant.com](mailto:ajohnson@bradleyarant.com)

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JPML

2002

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

NOV - 7 2005

FILED  
CLERK'S OFFICE

**DOCKET NO. 1708**

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**IN RE GUIDANT CORP. IMPLANTABLE DEFIBRILLATORS PRODUCTS  
LIABILITY LITIGATION**

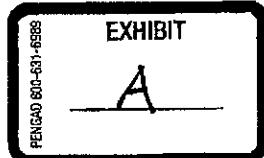
**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.  
LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR.,  
KATHRYNH. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL**

**TRANSFER ORDER**

This litigation currently consists of two actions in the District of Minnesota and one action each in the Central District of California, Southern District of Florida, Southern District of Indiana and Eastern District of New York as listed on the attached Schedule A.<sup>1</sup> Before the Panel are two motions, pursuant to 28 U.S.C. § 1407, that taken together seek centralization for coordinated or consolidated pretrial proceedings of the six actions. Plaintiff in one District of Minnesota action and plaintiff in the Southern District of Indiana action both seek centralization in the district in which their respective actions are pending. Defendants Guidant Corp., Guidant Sales Corp., and Cardiac Pacingmakers, Inc. (collectively Guidant) initially opposed the motions, but now agree that centralization is warranted; however, the defendants propose the Northern District of Illinois as transferee district. Plaintiffs in all actions before the Panel agree that centralization is appropriate, as do plaintiffs in numerous potential tag-along actions, but some responding plaintiffs suggest transferee districts other than those proposed by the movants and Guidant, including the Northern District of California, Southern District of Florida, Eastern District of New York, Northern District of Ohio, and Eastern District of Pennsylvania, among others.

On the basis of the papers filed and hearing session held, the Panel finds that these six actions involve common questions of fact, and that centralization under Section 1407 in the District of Minnesota will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share allegations that certain implantable defibrillator devices manufactured by Guidant were defective and caused injury, or the threat of injury, to the plaintiffs and putative class members. Plaintiffs in some potential tag-along actions also bring claims related to pacemakers manufactured by Guidant. All devices at issue in these actions have been the subject of

<sup>1</sup> The Panel has been notified of over 60 potentially related actions pending in multiple federal districts. In light of the Panel's disposition of this docket, these actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).



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written warnings, medical advisories, recalls, or some combination thereof. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery; prevent inconsistent pretrial rulings, especially with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary.

Given the varied locations of parties and witnesses in this docket and the geographic dispersal of pending actions, it is clear that a wide array of suitable transferee districts presents itself. In concluding that the District of Minnesota is an appropriate forum for this docket, we observe that this district, where at least ten actions are already pending before one judge, is a geographically central, metropolitan district equipped with the resources that this complex products liability litigation is likely to require. The District of Minnesota also has a nexus to this docket given the location there of key Guidant facilities involved in the development and manufacturing of the relevant devices.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the District of Minnesota are transferred to the District of Minnesota and, with the consent of that court, assigned to the Honorable Donovan W. Frank for coordinated or consolidated pretrial proceedings with the actions listed on Schedule A and pending in that district.

FOR THE PANEL:

*Wm. Terrell Hodges*

Wm. Terrell Hodges  
Chairman

11/07/2005 11:57 FAX 2025024833

JPML

2004

## SCHEDULE A

### MDL-1708 – In re Guidant Corp. Implantable Defibrillators Products Liability Litigation

#### Central District of California

*Joseph Gabriele v. Guidant Corp.*, C.A. No. 5:05-487

#### Southern District of Florida

*Eugene Clasby v. Guidant Corp.*, C.A. No. 1:05-21485

#### Southern District of Indiana

*John Brennan v. Guidant Corp., et al.*, C.A. No. 1:05-827

#### District of Minnesota

*Edith Walker v. Guidant Corp.*, C.A. No. 0:05-1141

*Darci L. Munson v. Guidant Corp., et al.*, C.A. No. 0:05-1153

#### Eastern District of New York

*Larry Wenig, et al. v. Guidant Corp., et al.*, C.A. No. 2:05-2822

Shook,  
Hardy &  
Bacon, L.L.P.

www.shb.com

July 23, 2007

Karen V. Mesmer

Denise Morgan-Stone  
Judicial Panel on Multidistrict Litigation  
One Columbus Circle, NE  
Thurgood Marshall Federal Judiciary Building  
Room G-255, North Lobby  
Washington, DC 20002-8004

2555 Grand Blvd.  
Kansas City  
Missouri 64108-2613  
816.474.6550  
816.421.5547 Fax  
kmesmer@shb.com

Re: **MDL -1708 - In Re: Guidant Corp. Implantable Defibrillators Products Liability Litigation**

Dear Mrs. Morgan-Stone:

Enclosed please find the original of Defendants' Seventy-fifth Notice of Potential Tag-Along Actions for filing. We have also enclosed the docket sheets for each case tagged. If you have any questions or concerns, please feel free to contact us.

Thank you for your attention to this matter.

Sincerely,

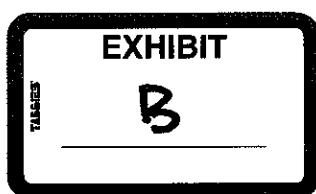


Karen V. Mesmer  
Senior Analyst-KC

KKC:jmw  
Enclosures

cc: Attached Counsel List

Geneva  
Houston  
Kansas City  
London  
Miami  
Orange County  
San Francisco  
Tampa  
Washington, D.C.



**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

**In re Guidant Corp. Implantable  
Defibrillators Products Liability  
Litigation**

**MDL No. 1708**

**SEVENTY FIFTH NOTICE OF POTENTIAL TAG-ALONG ACTIONS**

Pursuant to Rule 7.5(e) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Defendants Guidant Corporation, Guidant Sales Corporation and Cardiac Pacemakers, Inc. hereby respectfully notify the Clerk of the Panel of potential tag-along actions as set forth below and state as follows:

1. By Motion to Transfer dated June 14, 2005, Plaintiff Darcy Munson sought consolidation and coordination of several actions as set forth in the Schedule of Actions attached thereto.
2. By Transfer Order dated November 7, 2005, the Panel ordered that the actions subject to the Motion for Transfer be transferred to the District Court for the District of Minnesota and assigned to the Honorable Donovan W. Frank for coordinated and consolidated pretrial proceedings.
3. The following potential tag-along actions, like those actions identified in the original Schedule of Actions attached to Munson's Motion to Transfer, are pending in federal courts and involve allegations of injuries from cardiac medical devices:

**ALABAMA**

- *Bradley, Sue vs. Guidant Corporation, et al;* Case No. 3:07-cv-661 (USDC MD AL) removed on July 19, 2007;

## FLORIDA

- *Dumke, Francis vs. Guidant Corporation, et al;* Case No. 6:07-cv-01171 (USDC MD FL) removed on July 13, 2007;
- *Kelly, Kristina vs. Guidant Corporation, et al;* Case No. 8:07-cv-01238 (USDC MD FL) removed on July 16, 2007;

## ILLINOIS

- *Acton, Wilbur vs. Guidant Corporation, et al;* Case No. 3:07-cv-522 (USDC SD IL) filed on July 17, 2007;
- *Alexander, Edward vs. Guidant Corporation, et al;* Case No. 3:07-cv-518 (USDC SD IL) filed on July 17, 2007;

## INDIANA

- *Thomas, Beth vs. Guidant Corporation, et al;* Case No. 1:07-cv-933 (USDC SD IN) filed on July 17, 2007;

## OHIO

- *Reed, Walter vs. Guidant Corporation, et al;* Case No. 2:07-cv-679 (USDC SD OH) filed on July 17, 2007;

## NEW YORK

- *Dodgson, Charles vs. Guidant Corporation, et al;* Case No. 07-cv-6311 (USDC SD NY) removed on July 10, 2007;

## NEW JERSEY

- *Fine, Irwin vs. Guidant Corporation, et al;* Case No. 3:07-cv-3273(USDC NJ) filed on July 16, 2007.

4. Transfer of the potential tag-along actions to the District of Minnesota for consolidated and coordinated pre-trial proceedings is therefore appropriate for the same reasons as set forth in this Panel's Transfer Order.

5. Copies of the Complaints in these cases are attached hereto for the Panel's convenience.

Respectfully submitted,

Timothy A. Pratt  
Timothy A. Pratt  
Deborah A. Moeller  
SHOOK, HARDY & BACON L.L.P.  
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Corporation, Cardiac Pacemakers, Inc. and  
Guidant Sales Corporation**

**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

**In re Guidant Corp. Implantable  
Defibrillators Products Liability  
Litigation**

**MDL No. 1708**

**PROOF OF SERVICE**

I hereby certify that on July 23, 2007, a copy of the Seventy Fifth Notice of Potential Tag-Along Actions was served on counsel listed below, via U.S. Mail.

*Timothy A. Pratt*  
Timothy A. Pratt  
Counsel for Defendants Guidant ~~by~~ <sup>and</sup> Battley  
Corporation, Cardiac Pacemakers, Inc. and  
Guidant Sales Corporation

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*Plaintiffs' Lead Counsel*

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*Plaintiffs' Lead Counsel*

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*Plaintiff's Counsel for Bradley*

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*Plaintiff's Counsel for Dumke*

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Tampa, FL 33606  
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*Plaintiff's Counsel for Kelly*

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BROWN & CROUPPEN  
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*Plaintiff's Counsel for Acton & Alexander*

Jamie Ranah Kendall  
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*Plaintiff's Counsel for Thomas*

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*Plaintiff's Counsel for Reed*

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*Plaintiff's Counsel for Dodgson*

Bruce Heller Nagel  
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103 Eisenhower Parkway  
Roseland, NJ 07068  
Phone: 973-618-0400

*Plaintiff's Counsel for Fine*

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LORETTA G. WHYTE  
CLERKUNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANAKENNETH R. CASANOVA,  
Plaintiff

\* CIVIL ACTION NO. 05-4044

versus

\* SECTION C

GUIDANT CORPORATION, GUIDANT  
SALES CORPORATION,  
Defendants

\* JUDGE BERRIGAN

\* MAGISTRATE 1

\* MAG. JUDGE SHUSHAN

\* \* \* \* \*

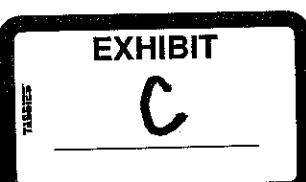
O R D E R

Considering the foregoing Motion,

IT IS ORDERED, ADJUDGED AND DECREED that the Unopposed Motion to Stay Pending Transfer submitted by Guidant Corporation and Guidant Sales Corporation is hereby GRANTED. This case is stayed pending transfer to the MDL Court in the District of Minnesota.

New Orleans, Louisiana, this 30<sup>th</sup> day of Nov, 2005.
  


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 UNITED STATES DISTRICT JUDGE


<input type="checkbox"/>	Fee _____
<input type="checkbox"/>	Process _____
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<input checked="" type="checkbox"/>	CtRm.Dep. _____
<input type="checkbox"/>	Doc. No. _____

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA  
2005 NOV 30 AM 12:01  
LORETTA G. WHYTE  
CLERK  
*J*

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

EMMETT R. MESSICK,  
Plaintiff

\* CIVIL ACTION NO. 05-4017

versus

\* SECTION A

GUIDANT CORPORATION, GUIDANT  
SALES CORPORATION, and CARDIAC  
PACEMAKERS, INC.,  
Defendants

\* JUDGE ZAINY

\* MAGISTRATE 4

\* MAG. JUDGE ROBY

\* \* \* \* \*

O R D E R

Considering the foregoing Motion,

IT IS ORDERED, ADJUDGED AND DECREED that the Unopposed Motion to Stay Pending Transfer submitted by Guidant Corporation, Guidant Sales Corporation, and Cardiac Pacemakers, Inc. is hereby GRANTED. This case is stayed pending transfer to the MDL Court and administratively closed in the District of Minnesota.

New Orleans, Louisiana, this 29<sup>th</sup> day of November, 2005.

*J. Zainy*  
UNITED STATES DISTRICT JUDGE

Fee \_\_\_\_\_  
Process \_\_\_\_\_  
 Dktd. \_\_\_\_\_  
 CtRmDisp. *for* \_\_\_\_\_  
Doc. No. \_\_\_\_\_

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

ROBERT HABERLE,

Plaintiff,

v.

CASE NO: 8:05-cv-1456-T-26MSS

GUIDANT CORP., et al.,

Defendants.

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**ORDER**

**UPON DUE CONSIDERATION**, it is **ORDERED AND ADJUDGED** as follows:

- 1) Defendant's Unopposed Motion for Enlargement of Deadlines to Answer or Otherwise Respond and to Participate in Pretrial Proceedings Pending JPML Determination (Dkt. 10) is granted.
- 2) All proceedings in this case are stayed pending a transfer decision by the Judicial Panel on Multidistrict Litigation.
- 3) The Clerk is directed to administratively close this case during the pendency of the stay, subject to the right of any party to file a motion to reopen in the event the JPML denies transfer.

**DONE AND ORDERED** at Tampa, Florida, on November 4, 2005.

s/

---

**RICHARD A. LAZZARA**  
**UNITED STATES DISTRICT JUDGE**

**COPIES FURNISHED TO:**

Counsel of Record

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

KENNETH J. PEPPER,

Plaintiff,

vs.

CASE NO. 8:05-CIV-1606-T-17-TGW

GUIDANT CORPORATION, et al.,

Defendant.

**ORDER**

This cause is before the Court on the defendants' unopposed motion for extension of time to file answer or otherwise plead and to participate in pretrial proceedings pending JPML determination (Docket No. 11). Accordingly, it is

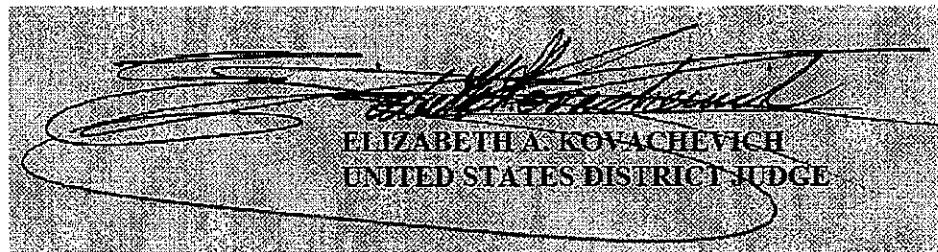
**ORDERED** that the motion for extension of time to file answer or otherwise plead and to participate in pretrial proceedings pending JPML determination (Docket No. 11) be granted. The defendants must answer or otherwise respond to the complaint as follows: a) if the motion to transfer and consolidate is granted by the JPML, a deadline set by the transferee court; or (b) if the motion is denied by the JPML, thirty (30) days after such denial and the deadline by which the parties must participate in any pretrial proceedings – including, initiation of discovery requests, participation in pretrial disclosures, scheduling or case management activities in connection with Fed. R. Civ. P. 16 or 26 or Local Rule 3.05 and

CASE NO. 94-1644-CIV-T-17

CASE NO. 8:05-CIV-1606-T-17-TGW

attendance at any meeting, conference or hearing – as follows: (a) if the motion to transfer and consolidate is granted by the JPML, a deadline set by the transferee court; or (b) if the motion is denied by the JPML, no earlier than sixty (60) days after such denial.

**DONE and ORDERED** in Chambers, in Tampa, Florida, this 4th day of November, 2005.



Copies to: All parties and counsel of record

**FILED**

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

2005 NOV -9 PM 1:19

**ROBERT EARL SMITH, as  
Personal Representative of the Estate  
of BOBBY SMITH, deceased,  
Plaintiff,**

CLERK, US DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE, FLORIDA

v.

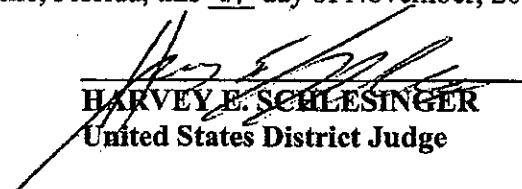
Case No.: 3:05-cv-728-J-20MCR

**GUIDANT CORPORATION,  
Defendant.**

**ORDER**

Before the Court is Defendant's Motion for Entry of Extension of Deadlines to Participate in Pretrial Proceedings Pending JPML Determination (Doc. No. 21, filed October 6, 2005) which the Court construes as a Motion to Stay Pretrial Proceedings Pending Determination by Judicial Panel on Multidistrict Litigation. Upon due consideration, the Court finds that a stay furthers the interests of judicial efficiency and is appropriate in this case. Accordingly, the Defendant's Motion (Doc. No. 21) is **GRANTED**. The Court cannot, as Defendant requests, grant an undefined and seemingly unlimited extension in this case pending the Panel's determination. Therefore, this case, including the Parties' discovery and case management obligations, is hereby **STAYED** for a period of **ninety (90) days**. The Parties are directed to notify the Court of any decision by the Judicial Panel on Multidistrict Litigation and pretrial deadlines will be established at that time.

**DONE AND ENTERED** at Jacksonville, Florida, this 17 day of November, 2005.

  
**HARVEY E. SCHEESINGER**  
United States District Judge

Copies to:

James B. Murphy, Jr., Esq.  
Matthew B. Murphy, Jr., Esq.  
Timothy A. Pratt, Esq.

Deborah A. Moeller, Esq.  
John K. Sherk, III, Esq.  
Robert F. Spohrer, Esq.  
Norwood S. Wilner, Esq.

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

RICHARD JAMES REBONE,

Plaintiff,

v.

Case No. 5:05-cv-379-Oc-10GRJ

GUIDANT CORPORATION; CARDIAC  
PACEMAKERS, INC.; GUIDANT SALES  
CORPORATION,

Defendants.

---

**ORDER**

Pending before the Court is Defendants' Unopposed Motion For Enlargement Of Deadlines To Answer Or Otherwise Respond And To Participate In Pretrial Proceedings Pending JPML Determination. (Doc. 9.)

This is a products liability action regarding a line of cardiac medical devices manufactured by Cardiac Pacemakers, Inc., a wholly-owned subsidiary of Guidant Corporation. Defendants represent that in a number of cases pending against them in federal courts in various districts, plaintiffs have filed motions to transfer and consolidate their cases in the proceedings entitled *In re: Guidant Corp. Implantable Defibrillators Products Liability Litigation*, MDL Docket No. 1708. On September 23, 2005, Defendants notified the Judicial Panel of Multidistrict Litigation ("JPML") of this potential "tag-along action."<sup>1</sup> The issues related to transfer and consolidation of these cases has been fully briefed and the JPML held its hearing on the matter on September 29, 2005.

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<sup>1</sup> See Doc. 9, Exhibit A.

The Court previously granted Defendants a thirty-day enlargement of time to file a response to Plaintiff's Complaint.<sup>2</sup> Now, Defendants request that the Court further enlarge their time to file a response to Plaintiff's Complaint and extend the deadline by which the parties must participate in any pretrial proceedings (i.e. discovery, pretrial disclosures, scheduling or case management activities). Defendants represent that Plaintiff has no objection to this motion.

Under these circumstances, a stay is appropriate. This case is in the very early stages of litigation. Plaintiff filed his Complaint (Doc. 1) on August 30, 2005. It does not make sense for this Court and the parties to invest their time and resources in this case, if it is ultimately going to be transferred by the JPML.

Accordingly, Defendants' Unopposed Motion For Enlargement Of Deadlines To Answer Or Otherwise Respond And To Participate In Pretrial Proceedings Pending JPML Determination (Doc. 9) is **GRANTED**. This action is **STAYED** pending further order of the Court. However, in order to insure that this action is promptly transferred and to avoid this action remaining inactive in the event the request for transfer is not granted, Defendants shall file a status report with the Court within **60 days** regarding the status of the transfer by the JPML.

**IT IS SO ORDERED.**

**DONE AND ORDERED** in Ocala, Florida, on November 4, 2005.



GARY R. JONES  
United States Magistrate Judge

Copies to:  
All Counsel

---

<sup>2</sup> See Doc. 4.

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

CHRISTOPHER J. CIOPPOLA,	)	
	)	
	)	
	Plaintiff,	)
	)	
v.	)	No. 05-0939-CV-W-DW
	)	
GUIDANT CORPORATION and	)	
GUIDANT SALES CORPORATION,	)	
	)	
	Defendants.	)

**ORDER**

Pending before the Court is Defendants' motion to extend the deadlines for various pretrial proceedings pending a transfer decision by the Judicial Panel on Multidistrict Litigation ("JPML"). On October 18, 2005, this case was noticed to the JPML as a "tag-along action" pursuant to Rule 7.5(e) of the Rules for the Judicial Panel on Multidistrict Litigation. Plaintiff has no objection. Accordingly, the Court stays this action pending the JPML transfer decision.<sup>1</sup>

IT IS SO ORDERED.

/s/ DEAN WHIPPLE  
Dean Whipple  
United States District Court

Date: November 8, 2005

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<sup>1</sup> The Court will address extensions to specific pretrial deadlines as necessary if the motion to transfer is denied. The parties are directed to apprise the Court of the outcome of the JPML determination as appropriate.

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

JEROME TERRY, JR., )  
vs. Plaintiff, )  
vs. ) No. 05-1007-CV-W-SOW  
GUIDANT CORPORATION, et al., )  
Defendants. )

ORDER

Before the Court is Defendants' Unopposed Motion to Postpone All Proceedings In This Court Pending MDL Transfer (Doc. # 4). Defendants move to postpone all deadlines for defendants to answer or otherwise respond to the Complaint, and for the parties to participate in pretrial proceedings, including discovery, pending transfer of this action to MDL. Plaintiff has no objections.

Accordingly, it is hereby

ORDERED that Defendants' Unopposed Motion to Postpone All Proceedings In This Court Pending MDL Transfer (Doc. # 4) is granted. All proceedings in this Court are postponed pending transfer of the above-captioned case to the MDL.

/s/Scott O. Wright  
SCOTT O. WRIGHT  
Senior United States District Judge

Dated: 12-1-05

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

ANTHONY MICELLI

VS

CASE NO. 3:05cv309/MCR/MD

GUIDANT CORPORATION, et al

## **REFERRAL AND ORDER**

Referred to Judge Rodgers on OCTOBER 18, 2005  
Type of Motion/Pleading: MOTION FOR ENTRY OF EXTENSION OF DEADLINES

TYPE OF MOTION/ PLEADING: MOTION FOR ENTRY OF EXTENSION OF DEADLINES

Filed by: DEFENDANTS on 10/6/05 Document 9

Stipulated/Consented/Joint Pleading

## **RESPONSES:**

on Doc. #

on Doc. #

WILLIAM M. McCOOL, CLERK OF COURT

s/L. James  
Deputy Clerk

## ORDER

Upon consideration of the foregoing, it is ORDERED this 18th day of October, 2005, that:

The requested relief is GRANTED as follows: The case and all further court proceedings are stayed for a period of sixty (60) days, at the end of which time defendants shall notify the court in writing of the status of the JPML's decision on transfer.

*s/ M. Casey Rodgers*

M. CASEY RODGERS  
UNITED STATES DISTRICT JUDGE

Entered On Docket: \_\_\_\_\_ By: \_\_\_\_\_

Rules 58 & 79(a) FRCP or 32(d)(1) & 55 FRCRP

Copies sent to:

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

No. 1:05CV00720

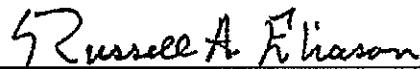
FRED M. LYLE AND SPOUSE MARTHA J.	)	ORDER FOR EXTENSION OF DEADLINES TO ANSWER OR OTHERWISE RESPOND AND TO PARTICIPATE IN PRETRIAL PROCEEDINGS PENDING J.P.M.L. DETERMINATION
LYLE, INDIVIDUALLY AND ON BEHALF OF	)	
ALL OTHERS SIMILARLY SITUATED	)	
Plaintiffs,	)	ORDER FOR EXTENSION OF DEADLINES TO ANSWER OR OTHERWISE RESPOND AND TO PARTICIPATE IN PRETRIAL PROCEEDINGS PENDING J.P.M.L. DETERMINATION
v.	)	
GUIDANT CORPORATION AND GUIDANT SALES CORPORATION	)	
Defendants.	)	ORDER FOR EXTENSION OF DEADLINES TO ANSWER OR OTHERWISE RESPOND AND TO PARTICIPATE IN PRETRIAL PROCEEDINGS PENDING J.P.M.L. DETERMINATION

This matter came on before the undersigned on Defendants' Motion for Entry of Order for Extension of Deadlines to Answer or Otherwise Respond and to Participate in Pretrial Proceedings Pending J.P.M.L. Determination. For good cause shown, the Court finds and orders that the deadline by which Defendants must answer or otherwise respond to Plaintiffs' Complaint in this action is as follows: (a) if those motions to transfer and consolidate are *granted* by the J.P.M.L., a deadline set by the transferee court; or (b) if those motions are *denied* by the J.P.M.L., thirty (30) days after such denial.

Additionally, the Court finds and orders the deadline by which the parties must participate in any pretrial proceedings – including initiation of discovery requests, participation in pretrial disclosures or activities in connection with Fed. R. Civ. P. 16 or 26 or appropriate Local Rules, and attendance at any meet-and-confer conferences or hearings – is as follows: (a) if those motions to transfer and consolidate are *granted* by the J.P.M.L., a deadline set by the

transferee court; or (b) if those motions are *denied* by the J.P.M.L., no earlier than sixty (60) days after such denial.

AND IT IS SO ORDERED this 22<sup>nd</sup> day of November, 2005.



United States Magistrate Judge Russell A. Eliason

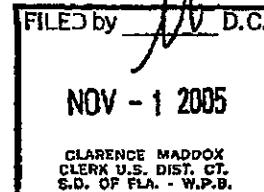
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 05-80851-RYSKAMP-VITUNAC

ERIC HARKONEN and VICKIE HARKONEN

Plaintiffs,  
vs.GUIDANT CORPORATION and GUIDANT  
SALES CORPORATION

Defendant.

STIPULATION AND ORDER FOR EXTENSION OF DEADLINES TO  
ANSWER OR OTHERWISE RESPOND AND TO PARTICIPATE IN  
PRETRIAL PROCEEDINGS PENDING J.P.M.L. DETERMINATION

IT IS HEREBY STIPULATED AND AGREED by and between Defendants Guidant Corporation and Guidant Sales Corporation (collectively "Defendants") and Plaintiffs that the deadline for Defendants to answer or otherwise respond to Plaintiffs' Complaint, and the deadlines for all parties to participate in pretrial proceedings in this matter, shall be extended pending a transfer decision by the Judicial Panel on Multidistrict Litigation ("J.P.M.L.").

In a number of cases pending against Defendants in federal courts in various states, plaintiffs have filed motions to transfer and to consolidate their cases under 28 U.S.C. § 1407 in the proceedings entitled *In re: Guidant Corp. Implantable Defibrillators Products Liability Litigation*, MDL Docket No. 1708. The J.P.M.L. heard argument on these motions on September 29, 2005.

In the short intervening time between now and a determination by the J.P.M.L. on whether to grant those motions, the time and resources of the Court and of the parties should not

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be expended in answering or responding to the Complaint or in participating in pretrial proceedings.

Pursuant to this Stipulation and Order, the deadline by which Defendants must answer or otherwise respond to Plaintiffs' Complaint in this action is as follows: (a) if those motions to transfer and consolidate are *granted* by the J.P.M.L., a deadline set by the transferee court; or (b) if those motions are *denied* by the J.P.M.L., thirty (30) days after such denial.

Additionally, pursuant to this Stipulation and Order, the deadline by which the parties must participate in any pretrial proceedings – including initiation of discovery requests, participation in pretrial disclosures or activities in connection with Fed. R. Civ. P. 16 or 26 or Local Rule 16.1, and attendance at any meet-and-confer conferences or hearings – is as follows: (a) if those motions to transfer and consolidate are *granted* by the J.P.M.L., a deadline set by the transferee court; or (b) if those motions are *denied* by the J.P.M.L., no earlier than sixty (60) days after such denial.

Dated: Palm Beach Gardens, Florida  
October   , 2005

RICCI-LEOPOLD, P.A.

By:

  
Theodore J. Leopold, Esquire  
Benjamin Salzillo, Esquire  
Attorneys for Plaintiff  
2925 PGA Blvd., Suite 200  
Palm Beach Gardens, FL 33410  
Tel: 561-684-6500  
Fax: 561-697-2383

Dated: Miami, Florida  
October 11, 2005

SHOOK, HARDY & BACON L.L.P.

By: Eileen T. Moss

Eileen Tilghman Moss, Esquire  
Attorneys for Defendants  
Guidant Corporation and Guidant Sales  
Corporation  
Miami Center, Suite 2400  
201 S. Biscayne Boulevard  
Miami, Florida 33131-4332  
Telephone: (305) 358-5171  
Facsimile: (305) 358-7470

SO ORDERED:

Kenneth L. Ryskamp  
KENNETH L. RYSKAMP  
UNITED STATES DISTRICT JUDGE

11-1-05

Page 1 of 1

**Johnson, Andy**

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**From:** cmecf\_ALND@alnd.uscourts.gov  
**Sent:** Friday, January 27, 2006 4:07 PM  
**To:** ecfAdmin@alnd.uscourts.gov  
**Subject:** Activity in Case 2:06-cv-00101-RRA Schuck v. Guidant Corporation et al "Order on Motion to Stay"

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**U.S. District Court**

**Northern District of Alabama**

**Notice of Electronic Filing**

The following transaction was received from JTR, entered on 1/27/2006 at 4:07 PM CST and filed on 1/27/2006

**Case Name:** Schuck v. Guidant Corporation et al

**Case Number:** 2:06-cv-101

**Filer:**

**Document Number:**

**Docket Text:**

ORDER granting [5] Motion to Stay. All proceedings in this case are STAYED pending transfer of the above captioned case to the MDL Court. Signed by Judge Robert R Armstrong on 01/27/06. (JTR)

The following document(s) are associated with this transaction:

**2:06-cv-101 Notice will be electronically mailed to:**

F M Haston , III thaston@bradleyarant.com

Andrew B Johnson ajohnson@bradleyarant.com

Craig L Lowell cll@wcqp.com

**2:06-cv-101 Notice will be delivered by other means to:**

9/15/2006

**EXHIBIT**

**D**

**Johnson, Andy**

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**From:** cmecf\_ALND@alnd.uscourts.gov  
**Sent:** Friday, June 09, 2006 1:50 PM  
**To:** ecfAdmin@alnd.uscourts.gov  
**Subject:** Activity in Case 7:06-cv-00977-LSC Christon v. Guidant Corporation et al "Order on Motion to Stay"

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**U.S. District Court**

**Northern District of Alabama**

**Notice of Electronic Filing**

The following transaction was received from BST, entered on 6/9/2006 at 1:50 PM CDT and filed on 6/9/2006

**Case Name:** Christon v. Guidant Corporation et al

**Case Number:** 7:06-cv-977

**Filer:**

**Document Number:**

**Docket Text:**

ORDER granting [4] Motion to Stay . Signed by Judge L Scott Coogler on 6/9/2006. (BST, )

The following document(s) are associated with this transaction:

**7:06-cv-977 Notice will be electronically mailed to:**

W Lewis Garrison , Jr wlgreggarrison@hgdlawfirm.com

Andrew B Johnson ajohnson@bradleyarant.com

**7:06-cv-977 Notice will be delivered by other means to:**

Case 2:06-cv-00763-WKW-DRB Document 10 Filed 09/21/2006 Page 1 of 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

ERNEST REED, et al., )  
Plaintiffs, )  
v. ) CASE NO. 2:06-cv-00763-WKW  
GUIDANT CORPORATION, et al., )  
Defendants. )

ORDER

Upon consideration of the unopposed Joint Motion to Stay Proceedings Pending Transfer to Multidistrict Litigation (Doc. # 5) filed by the defendants on September 15, 2006, it is ORDERED that the motion is GRANTED. All proceedings in this case are STAYED pending transfer of the case to the MDL Court.

DONE this the 21st day of September, 2006.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE

Case 1:06-cv-00644-BH-C Document 13 Filed 11/02/2006 Page 1 of 2

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

ARTHUR T. SIMS and BRENDA M. SIMS, )  
Plaintiffs, )  
v. ) CIVIL ACTION NO.  
GUIDANT SALES CORPORATION; et al., ) 06-0644-BH-C  
Defendants. )

**ORDER**

This action is again before the Court on defendants' motion to stay (Doc. 3). Upon consideration of the motion, plaintiffs opposition (Doc. 9) thereto, defendants' reply (Doc. 12) and all other pertinent portions of the record, the Court concludes that the motion to stay is due to be granted for the reasons set forth by the defendants (Doc. 3 and 12). The Court agrees that it is likely that the device at issue in this case, namely a Vitality DS T125 pacemaker and defibrillator combination unit serial number 113431, will be included among the devices being addressed in MDL 1708, *In Re Guidant Corp. Implantable Defibrillators Product Liability Litigation*, and that plaintiffs' arguments ought to be addressed in the first instance by the Judicial Panel on Multidistrict Litigation (JPML).<sup>1</sup> It is accordingly **ORDERED** that the defendants' motion to stay be and is

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<sup>1</sup>To the extent plaintiffs challenge the Court's jurisdiction on the grounds that it is inappropriate to aggregate their damage claims, the Court finds plaintiffs' argument to be without merit for the reasons stated by the defendants in their Notice of Removal (Doc. 1-1). To the extent plaintiffs argue that they should be given an opportunity to amend their complaint to prevent such aggregation, such an effort to divest this Court of jurisdiction is clearly impermissible.

Case 1:06-cv-00644-BH-C Document 13 Filed 11/02/2006 Page 2 of 2

hereby **GRANTED** in that this action be and is hereby **STAYED** pending transfer to MDL 1708, **PROVIDED** that the defendants notify the JPML as soon as possible but no later than November 14, 2006, that plaintiffs' claims are appropriate for transfer to MDL 1708 and take such steps as are necessary to obtain the transfer.

It is **FURTHER ORDERED** that the defendants **FILE** with this Court on the second Tuesday of every month commencing December 12, 2006 a status report concerning the proceedings before the JPML and the transfer of this action to MDL 1708, **FAILING IN WHICH THIS COURT SHALL LIFT THE STAY AND PROCEED WITH THE LITIGATION IN THIS COURT.**

DONE this 2<sup>nd</sup> day of November, 2006.

s/ W. B. Hand  
SENIOR DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION**

LUTHER COOK, )  
vs. Plaintiff, ) CIVIL ACTION NO. 07-0095-CG-M  
GUIDANT CORPORATION, et al., )  
Defendants. )

**ORDER**

This matter is before the court on the parties' joint motion to stay proceedings pending transfer to Multidistrict Litigation ("MDL") (Doc. 6).

Upon due consideration, the parties' motion to stay is **GRANTED**. This action is hereby **STAYED** pending receipt of the MDL Panel's transfer order for inclusion of this action in the Guidant Corp. Implantable Defibrillators Products Liability Litigation, MDL-1708. This stay will remain in effect until the court is notified of the MDL Panel's decision concerning transfer

**DONE and ORDERED** this 22<sup>nd</sup> day of February, 2007.

/s/ Callie V. S. Granade  
CHIEF UNITED STATES DISTRICT JUDGE

Case 2:07-cv-00118-ID-WC Document 8 Filed 02/22/2007 Page 1 of 1

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>BERNICE BROWNFIELD,</b>	)
	)
<b>Plaintiff,</b>	)
	)
<b>v.</b>	) <b>Civil Action No. 2:07cv118-ID</b>
	)
<b>GUIDANT CORP., et al.,</b>	)
	)
<b>Defendants.</b>	)

**ORDER**

Upon CONSIDERATION of Defendants' joint motion to stay (Doc. No. 6), which is unopposed by Plaintiff, and for good cause shown, it is ORDERED that said motion be and the same is hereby GRANTED and that all proceedings in this case are hereby STAYED pending a decision by the Judicial Panel on Multidistrict Litigation in the District of Minnesota on whether this case should be transferred to that panel pursuant to 28 U.S.C. § 1407.

DONE this 22<sup>nd</sup> day of February, 2007.

/s/ Ira DeMent  
SENIOR UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

ERNEST T. WILLIAMS, )  
                          )  
Plaintiff,            )  
                          )  
v.                     ) CIVIL ACTION 07-0295-WS-B  
                          )  
GUIDANT CORPORATION, *et al.*,    )  
                          )  
Defendants.           )

**ORDER**

On May 8, 2007, defendants filed a Joint Motion to Stay Proceedings Pending Transfer to Multidistrict Litigation (doc. 11). In support of this request, defendants note that at least 1380 actions from around the United States have already been transferred for consolidated pretrial proceedings to an MDL action styled *In re Guidant Corp. Implantable Defibrillators Products Liability Litigation* (MDL -1708) and pending in the District of Minnesota. Defendants further maintain that on April 27, 2007, they notified the Judicial Panel on Multidistrict Litigation that plaintiff's claims herein are appropriate for transfer to the MDL action as a "tagalong" action, and that transfer is expected to occur shortly.

After review of the Motion and the court file, the undersigned agrees that the imminent transfer of this case by the MDL Panel is likely. The Court further agrees that the interests of judicial economy militate in favor of staying this action pending the MDL Panel's transfer decision. Plaintiff has specifically consented to the request for stay during this time period.

For these reasons, defendants' Motion to Stay (doc. 11) is granted, and this action is hereby stayed pending a ruling by the MDL Panel as to whether this action is to be transferred to the MDL proceedings in the District of Minnesota.

DONE and ORDERED this 9th day of May, 2007.

s/ WILLIAM H. STEELE  
UNITED STATES DISTRICT JUDGE